

"Express Mail" mailing label number EV049396882US

Date of Deposit: February 8, 2002

#3



Our Case No. 9623/374

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Singh, Narinder, et al.	)	
	)	Examiner <i>not yet assigned</i>
Serial No. <i>not yet assigned</i>	)	
	)	Group Art Unit No.: <i>not yet assigned</i>
Filing Date: February 8, 2002	)	
	)	
For AUTOMATIC FLIGHT	)	
MANAGEMENT IN AN ONLINE	)	
MARKETPLACE	)	

**PETITION UNDER 37 C.F.R. 1.183**

Commissioner for Patents  
Washington, D.C. 20231

**RECEIVED**

**MAY 20 2002**

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Dear Sir:

Applicants respectfully request waiver of the requirement under 37 C.F.R. § 1.52(e) for including in the transmittal letter and specification of the patent application filed herewith a list of the names of the files contained on the compact disk, with other identifying information. The number of files on the enclosed disk is too great to practically include such a list.

Background

For filing electronic documents that are to become part of permanent records of the U.S. Patent and Trademark Office, 37 C.F.R. § 1.52(e) provides that such documents may be submitted on a compact disc read only memory (CD-ROM) or compact disc-recordable (CD-R). Rules are provided for format and content of the submission.

Among the information to be provided is a list of the files contained on the submitted compact discs. This information must be provided in two places when submitting a compact disc as part of a patent application. "The specification must contain an incorporation-by-reference of the material on the compact disc in a separate paragraph..., identifying each

compact disc by the names of the files contained on each of the compact discs, their date of creation and their sizes in bytes.” 37 C.F.R. § 1.52(e)(5) (2001). Further, “[t]he transmittal letter must list for each compact disc ... a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation....” 37 C.F.R. § 1.52(e)(3)(ii) (2001).

Accordingly, the currently-established rules for submitting documents in electronic form on CD-ROM or CD-R require listing of the names of all files in both the patent application and transmittal letter.

### The Present Application

The present application is a continuation in part application claiming priority of parent application serial number 09/918,241 filed July 30, 2001 in the names of Darren J. Davis, et al., entitled SYSTEM AND METHOD FOR INFLUENCING A POSITION ON A SEARCH RESULT LIST GENERATED BY A COMPUTER NETWORK SEARCH ENGINE, which in turn is a continuation application claiming priority of grandparent application serial number 09/322,677, issued as U.S. patent number 6,269,361 on July 31, 2001. The grandparent application was filed on May 29, 1999. The grandparent application included a source code appendix filed in microfiche format and consisting of sixty three sheets of microfiche filed with the application in accordance with US Patent and Trademark Office practice at the time. The specification of the grandparent application included an incorporation by reference of the microfiche appendix.

A source code appendix is also included with the present application. In accordance with 37 C.F.R. § 1.52(e), the source code appendix has been stored on two identical CD-R compact discs in IBM-PC format under the MS-Windows operating system. On the compact discs filed with the application, at the top directory level of each disc is a file named “dir\_s” which identifies each file on the compact disc by the names of the files, their date of creation and their sizes in bytes. Also at the top directory level of each disc is a folder named “Goto” which contains eighteen sub-folders including many of the files identified in the file dir\_s. Also at the top directory level of each disc is a folder named “FlightManagement” which contains eighteen sub-folders including some of the files identified in the file dir\_s.

The total number of files contained on the CD-R compact disc is 31,822. The total number of bytes contained on the CD-R compact disc is 156,346,522. A folder named

“.AppleFileInfo” contains 6 files and 8,814 bytes. A folder named “Flight Management” contains 57 files and 1,252,536 bytes. The folder “Goto” contains 31,759 files and 155,085,172 bytes.

The total number of files is so large that the required identifying information can not be reasonably included in the incorporation by reference in the specification of the present application or in the transmittal letter for the present application. When displayed, the file dir\_s which identifies each file on the compact disc is more than 1,000 pages long. Including such a large file in hard-copy form in the patent specification and transmittal letter would produce a patent file which is inconvenient to handle and process within the U.S. Patent and Trademark Office. Expenses for photocopying, data capture and other processing will be unduly increased both for the application and any continuation or divisional applications, and for any patents which may be granted on such applications.

Accordingly, it is proposed to include in the incorporation by reference of the specification of the present application a reference to the file dir\_s on the compact disc which identifies each file on the compact disc. The present patent application has been filed with the following incorporation by reference:

A compact disc appendix is included containing computer program code listings pursuant to 37 C.F.R. 1.52(e) and is hereby incorporated by reference in its entirety. The total number of compact discs is 1 and the files included on the compact disc are listed in a file on the compact disc entitled “dir\_s”. Because of the large number of files contained on the compact disc, the required listing of file names, dates of creation and sizes in bytes is included in the file on the compact disc and incorporated by reference herein.

It is further proposed to include in the transmittal letter a reference to the file dir\_s on the compact disc which identifies each file on the compact disc. The transmittal letter for the present application includes the following information:

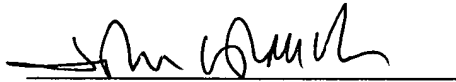
Enclosed are: ... two identical compact discs marked COPY 1 and COPY 2 and having a CD-R appendix containing computer source code in IBM-PC format compatible with MS-Windows operating system; a list of files contained on the compact discs is provided in a file at the top directory level of each compact disc in a file called “dir\_s”

Accordingly, because of the extraordinary situation created by the large number of files -- 31,822 files -- contained on the compact discs filed with the present application, Applicants respectfully request waiver of the requirement under 37 C.F.R. § 1.52(e) for inclusion in the specification and transmittal letter of a list of files contained on each compact disc. Applicants further request approval of the above-quoted incorporation by reference and listing of the transmittal filed with the present application in fulfillment of the requirements of 37 C.F.R. § 1.52(e).

Fee payment

A check in the amount of \$130.00 is enclosed for the Petition fee under 37 C.F.R. § 1.17(h). Any additional fee required may be charged or credit for any excess fee may be paid to Deposit Account No. 23-1925.

Respectfully submitted,



John G. Rauch  
Registration No. 37,218  
Attorney for Applicant

February 8, 2002

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## Compact Disc Submission Checklist - New Applications

Application Number	10/072220	Receipt Date	2/8/02
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## CD contains:

<input type="checkbox"/>	Nucleotide/amino acid sequence listing. <i>Make a printout of Page 1 of the sequence listing.</i>
<input type="checkbox"/>	Large Tables over 50 pages - subject to publication
<input checked="" type="checkbox"/>	Computer Program Listing
<input checked="" type="checkbox"/>	Other material intended to be part of the specification

## Is each file on the CD an ASCII-compatible file?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

The following files are not ASCII-compatible:

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## Compact Disc

<input checked="" type="checkbox"/>	Copy 1 and Copy 2 were submitted.
<input type="checkbox"/>	Copy 1 or Copy 2 was not submitted.
<input type="checkbox"/>	Neither Copy 1 nor Copy 2 was submitted.

## Is an incorporation by reference of the CD made in the transmittal or specification by listing each file on the CD by name, size and date?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

## Media

<input checked="" type="checkbox"/>	CD-ROM or CD-R
<input type="checkbox"/>	CD-RW - not acceptable

## Is each file listed in the incorporation by reference in the transmittal or specification also listed on the file directory printouts of the CDs?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

## Are the CDs readable?

<input checked="" type="checkbox"/>	Yes – both CDs are readable (if only one CD submitted, it was readable)
<input type="checkbox"/>	No – one CD is not readable
<input type="checkbox"/>	No – both CDs are not readable

## Do the files listed in the incorporation by reference match the files listed in the printouts of the file directories in terms of name, size, and date?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

## Are the CDs virus-free?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

## Make a printout of file directory listing for Copy 1

## Is Copy 2 an exact duplicate of Copy 1?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

## Can each file on the CD be opened without errors?

<input checked="" type="checkbox"/>	Yes
<input type="checkbox"/>	No

The following files cannot be opened without errors:

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## Notes


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Volume in drive D:\ is  
Directory of D:\

Desktop DB	1 KB	7/3/01
Desktop DF	26 KB	7/3/01
dir_s.txt	3323 KB	2/6/02
ICON%_0D	1 KB	7/3/01

4 file(s)  
Total filesize 3349 KB  
0 kilobytes free

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## PATENT APPLICATION TRANSMITTAL LETTER

To the Commissioner for Patents:

Transmitted herewith for filing is the patent application of: Narinder Singh and Darren Davis for: AUTOMATIC FLIGHT MANAGEMENT IN AN ONLINE MARKETPLACE. Enclosed are:

- ☒ 32 sheet(s) of drawings, 72 pages of application (including title page), and the following Appendices: two identical compact discs marked COPY 1 and COPY 2 and having a CD-R appendix containing computer source code in IBM-PC format compatible with MS-Windows operating system; a list of the 31,822 files contained on the compact discs is provided in a file at the top directory level of each compact disc in a file called "dir s".
- ☐ Declaration.
- ☐ Power of Attorney.
- ☐ Verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27.
- ☐ Assignment transmittal letter and Assignment of the invention to: \_\_\_\_\_.
- ☒ Petition under 37 C.F.R. § 1.183 and check for \$130.00 for the petition fee under 37 CFR. § 1.17(h).

Claims as Filed	Col. 1	Col. 2
For	No. Filed	No. Extra
Basic Fee		
Total Claims	44-20	0
Indep. Claims	3-3	0
Multiple Dependent Claims Present		

\*If the difference in col. 1 is less than zero, enter "0" in col. 2.

Small Entity	
Rate	Fee
	\$ 355
x\$9=	\$0
x\$40=	\$0
+\$135=	\$0
Total	\$

Other Than Small Entity	
Rate	Fee
	\$ 740
24x\$18=	\$432
x\$80=	\$0
+\$270=	\$0
Total	\$1172

- ☐ Please charge my Deposit Account No. 23-1925 in the amount of \$: \_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- ☒ A check in the amount of \$: 1172 to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ Any additional filing fees required under 37 CFR § 1.16.
- ☒ Any patent application processing fees under 37 CFR §1.17.
- ☐ The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☐ Any filing fees under 37 CFR § 1.16 for presentation of extra claims.
- ☐ Any patent application processing fees under 37 CFR § 1.17.
- ☐ The issue fee set in 37 CFR § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 CFR § 1.311(b).

Date

John G. Rauch

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Registration No. 37,218

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